

EPA Region 7

Deputy Regional Administrator Briefing

May 13, 2019

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DRAFT OUTREACH EMAIL

ROUGH DRAFT of OUTREACH to LOCAL GOVERNMENTS DO NOT DISTRIBUTE

County Commissioner Kendall Jordan
104 W State street
PO Box 61
Toledo, Iowa 52342

Re: USU.S. Environmental Protection Agency Review of Meskwaki Nation's Eligibility Application for Clean Water Act Water Quality Standards Program and Certification Programs

Dear Commission Chairman Jordan,

I am writing to inform you that the Meskwaki Nation (Tribe) has applied to the U.S. Environmental Protection Agency (EPA), Region 7, to be eligible for "treatment in a similar manner as a state" (TAS) authority under for purposes of administering Sections 303(c) (water quality standards (WQS)) and 401 (certifications) of the Clean Water Act (CWA). within the Meskwaki Nation Indian Settlement. This application is pending and was recently subject to a public notice and comment period. The EPA is conducting this additional outreach to you with this informational notice as a courtesy because you are a neighboring city or county government.

The EPA completed the public notice and request for comments from state and federal entities and the public on April 1, 2019. You may recall seeing the 30-day public notices that were published in the Meskwaki National Times, the Des Moines Register, and Marshalltown Times Republican, newspapers on March 1, 2019. The agency did not receive any comments from the state of Iowa or anyone else. The agency solicited Pursuant to EPA's regulations, the agency's request for comments focused on the jurisdictional authority of the Tribe related to the to administer the CWA Sections 303(c) and 401 programs over surface waters located within the Meskwaki Nation Indian Settlement. A map of the Settlement is attached map. EPA indicated that comments could have been sent to the state of Iowa or directly to EPA. this message. Also, if you would like to see a copy of the Tribe's complete application please contact me and I can email that to you.

The EPA is conducting this additional outreach to you as a courtesy because you are a neighboring county government. If you have any questions or comments on the Tribe's assertion of authority to regulate surface water quality within the Meskwaki Nation Indian Settlement, we would appreciate receiving them.

The EPA has not yet made a decision on this TAS eligibility application from the Tribe. Approval of the application would mean that the Tribe would be treated similar to a state and for CWA Section 303(c) purposes and thus eligible to submit to EPA and seek EPA's approval for establishing a water quality standards (of a WQS) program under section Section 303-(c) of the CWA for the surface waters within the Meskwaki Nation Indian Settlement. Establishment of a tribal WQS program and periodic reviews would be subject to additional public notice and comment procedures and submitted to EPA for review and approval. In addition, the approval of this TAS application means would mean the Tribe would be authorized to certify under section Section 401 of the CWA that discharges to surface water within the Settlement comply with the established tribal water quality standards for surface waters within that

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Commented [KJ1]: I don't have the names or the exact date. Can someone else fill this in?

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same area. Importantly, the application currently pending before EPA relates solely to the Tribe's TAS eligibility. The EPA's decision on the TAS eligibility application is separate from any EPA action on actual tribal WQS. Establishment of actual tribal WQS and periodic reviews of those WQS would be subject to additional public notice and comment procedures, and any tribal WQS would be submitted to EPA for review and approval as a separate EPA action under the CWA.

If you would like to discuss this matter, please contact me at shields.amy@epa.gov; (913) 551-7396.
~~{Amy plans to follow up with a phone call shortly after the letter is sent to be sure that the information was received.}~~

Best regards,

Amy Shields, Ph.D.
Branch Chief (signature block)

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Commented [KJ2]: OGC explained that we could get "finality" to this process by adding a 30-day time frame, but also agreed that we have a problem under the Adm. Procedures Act because our public comment period is closed. OGC also agreed that "outreach" does not need a timeline, it is merely information exchange without a deadline to respond. Legal experts advise that we should be cautious to avoid the appearance of starting another comment period.

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